

From: James Lyon
To: Microsoft ATR
Date: 12/6/01 2:33pm
Subject: Deeper Roots

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The fact is that Microsoft is an inevitable product of the socio-economic structure in which the Western World operates. Putting that aside for a moment, and dealing with the Anti-Trust case in isolation for the purposes of contributing to the current debate, I have the following comments:

The Anti-trust issue goes far deeper than MSIE being bundled with the OS, and ironically MSIE is one of the few products that could have competed on technical merit and did not need the "leg up".

This leads me to my point: The existence of a predominant Operating System whose internals (both technical and political) are known to one or more privileged companies gives rise to the competition obstacles and so on.

The only way to level the playing-field and to ensure there is real opportunity for innovation and enterprise to be able to be delivered to the market-place by new or existing competitors is to remove all the financial, technical and political advantages that Microsoft (and potentially others) has/have in the Operating System in question.

The judgement appears to broadly address this issue. However, Microsoft have a well-established reputation and a clearly demonstrated ability, to make very minor changes retrospectively that will remove sufficient crucial features without appearing to do so.

It is in the process of delivery and in the sustainability of the Judgement that the real risk now lies. Please take care to keep an eye on the proverbial ball as Microsoft become involved on a day-by-day operational basis.

In addition, there is one point that is overlooked. There is an indirect and subtle (therefore hard to measure) leverage of the Operating System's harmony with applications -- above the Middleware layer. The problem here is the tendency of a consumer or business to make a buying decision on the implied or real benefit from utilising both Application software and Operating System from the same Vendor, with the private internal knowledge cited above. This is, at best, very weakly addressed in the Judgement and requires better attention if it is not to significantly undermine the worthwhile nature and

effectiveness of the provisions outlined.

Finally, if you were _really_ genuine about levelling the operating system metaphorical "playing field", then you would have added the provision that MS would be obliged to make equally available every application or middleware component on at least one other "major" operating system. It doesn't matter which, so long as it was reasonably widely used and supported. This way, there would always be choice and opportunity for users to select operating systems and/or select applications (etc.) without interdependency that might benefit Microsoft exclusively.

I hope this is helpful and constructive -- I look forward to your revised press release!

Best regards,
James.

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